**IN THE HIGH COURT OF BOMBAY AT GOA**

WRIT PETITION NO.440/2007.

1) Mr. Anant Rama Kankonkar,
son of Mr.Rama Kankonkar, major
of age, Indian National, resident of
Mhalbat, Curca, Post Office Goa
Velha, Tiswadi, Goa.

2) Mr. Gurudas Rama Kankonkar,
son of Mr. Rama Kankonkar,
major of age, Indian National,
resident of Mhalbat, Curca, Post
Office Goa Velha, Tiswadi-Goa.

3) Mr. Dipak Rama Kankonkar,
son of Mr. Rama Kankonkar,
major of age, Indian National,
resident of Mhalbat, Curca, Post
Office Goa Velha, Tiswadi-Goa.

4) Mr. Demu Rama Kankonkar,
son of Rama Kankonkar,
major of age, Indian National,
resident of Mhalbat, Curca, Post
Office Goa Velha, Tiswadi-Goa.

5) Mrs. Laxmi Ramkrishna
Kankonkar, widow of Mr.
Ramkrishna Rama Kankonkar,
major of age, widow Indian National,
resident of Mhalbat, Curca, Post
Office Goa Velha, Tiswadi-Goa. ..... Petitioners.

Versus

1) CONFRARIA DO SSMO SACRA-
MENTO E.N.SRA. DO ROSARIO
DA IGREJA DE CURCA alias CON-
FRARIA OF CURCA alias CONFRARIA
OF SANTISSIMO OF CURCA alias
CONFRARIA OF THE CHURCH OF

CURCA, represented by its Managing Committee comprising of :

a) The President, Mr. Antonio Manuel Elizabeth da Costa son of late Mr. Estavaum Jose, da Costa, major of age, married, retired, Indian National, resident of Marigold Apartments, House No.1509/5, Dr. Rego Bagh, Alto St.Cruz, P.O. Bambolim-Goa.

b) The Treasurer, Mr. Agnelo Cardozo, son of Mr. Jose Francisco Xavier Graciano Cardozo, major of age, married, service, Indian National, resident of 21, Florentine Curca-Passagem, P.O. Goa, Velha-Goa.

c) The Special Attorney, Mr.Inacio Cardozo, son of late Mr. Jose Cardozo, aged about 51 years, married, service, Indian National, resident of House No.367, Bairro Passagem, Curca, P.O. Goa Velha, Ilhas-Goa. ..... Respondents.

Mr. D. Pangam, Advocate for the petitioners.
Mr. M. B. Da Costa, Sr. Advocate with Mr. J. A. Lobo, Advocate for the respondents.

**Coram** :- **R. S. MOHITE, J.**

**Date** : - 19th October, 2007.

**ORAL JUDGMENT :**

Heard both sides. Rule. By consent, rule is made returnable forthwith.

This writ petition impugn an order passed by Civil Judge, Senior Division, Panaji dated 31.1.2007 dismissing the application at

Exh.9. The said application was for recasting issue No.3 which was in the following terms :

> *"Whether the defendants prove that the suit property bearing survey No.76/3 of village Curca was leased by the plaintiff to late Rama Bami Gauns alias Rama Bami Kankonkar alias Rama Bami Sawant about 60 years ago?"*

The issue which was sought to be recast by the application at Exh. 9 was under :-

> *"Whether the defendants prove that the suit property bearing Survey No.76/3 of village Curca was leased by the plaintiff to Rama Bami Gauns alias Rama Bami Kankonkar alias Rama Bami Sawant about 60 years ago and the defendants are the tenants of the suit property ?"*

Once the issue relating to the existence of lease was already raised, the amendment which was sought in the issue was merely clarificatory. It appears that the same was sought so that there will be no further difficulty as and when the question would arise as to whether the issue is required to be referred to the Mamlatdar. To my mind there was no reason why the issue could not have been recast as desired as the recasting of the issue would have facilitated rhe decision on the further question as to whether the issue is required to be referred to the Mamlatdar.

In the circumstances, rule is made absolute in terms of prayer clause (b). It is made clear that all contentions raised by the original plaintiff in the suit are kept open. Petition disposed off.

R. S. MOHITE, J.

SMA